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RANDY LEE HALL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RANDY LEE HALL,

Plaintiff,

vs.

NATIONAL RAILROAD PASSENGER
CORPORATION ("AMTRAK"), JONATHAN
STASKA, Engineer Driver, DENISE HOGG,
Conductor, MICHAEL JOHN TORRENCE,
Assistant Conductor, BNSF RAILWAY
COMPANY, and DOES 1 through 49 inclusive,
Defendants.

Case No.: 3:19-cv-02312-WHA

PLAINTIFF'S THIRD AMENDED
COMPLAINT FOR DAMAGES

1. Negligence of Carrier
2. Dangerous Condition Creating Risk of Great Bodily Injury and Death
3. Wrongful Death

COMES NOW Plaintiff, RANDY LEE HALL, by and through undersigned counsel, and both individually and as a successor in interest to the estate of DEJANI MONETTE HALL, deceased, for the following causes of action against defendants, and each of them, alleges on information and belief the following:

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INTRODUCTION

1. This is a wrongful death and personal injury action arising out of the injury to and death of DEJANI MONETTE HALL, on and around 7:00 p.m. Pacific Standard Time, August 4, 2016, along the railroad tracks near the intersection of Glen and Santa Fe Avenues in Merced, California and along a stretch of tracks and land that is owned, controlled, operated, supervised, managed, secured, patrolled and/or maintained by defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them.

2. This area of track is and was, at all relevant times, known by defendants, and each of them, to be a local, specific individual safety hazard as they knew that this section of track was located between Hoover Middle School and a populated residential area with children that regularly, consistently and continuously crossed the tracks to get to and from school.

3. Defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them, knew or should have known that their failure to construct fencing or other impediment between the tracks and the trail along the northside of the tracks and dirt road along the southside of this section of track constituted actual or constructive permission and/or authorization by children and others to walk over and along the tracks as it created such extensive public use and access of the tracks and land along this section of tracks that, by failing to construct fencing to prevent access along and over the tracks, defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them, had given the children and others that walked along and over the tracks constructive or actual permission, authority and license to walk along and over the tracks.

4. This permission, authority and license was created by defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them, because they failed to construct fencing or other impediments to prevent children and others from walking along and over the tracks and

1 travelling along that stretch of tracks despite knowing that children and others regularly,
2 continuously, unimpeded and uninterrupted walked along and over the tracks along that stretch
3 of track.

4
5 5. Despite knowing that their failure to construct fencing or other impediments to prevent
6 children and others from regularly, continuously, unimpeded and uninterrupted walking along
7 and over the tracks along that stretch of track created a local, specific individual safety hazard to
8 children and others who crossed over and walked along the tracks, Defendants did not construct
9 fencing or other impediments to prevent children and others from walking over and along the
10 tracks.

11
12 6. Such failure by BNSF RAILWAY COMPANY and/or AMTRAK, and each of them,
13 constituted actual or constructive permission, authority and license to walk along and over the
14 tracks by BNSF RAILWAY COMPANY and/or AMTRAK, and each of them.

15
16 7. Despite their knowledge of this local, specific individual safety hazard created by BNSF
17 RAILWAY COMPANY and/or AMTRAK, and each of them, defendants, BNSF RAILWAY
18 COMPANY and/or AMTRAK, and each of them, continued to permit, authorize or ratify trains
19 travelling through this area at speeds of 60 miles per hour as authorized by 49 C.F.R. 213.9.

20
21 8. Because such conduct of defendants, and each of them, exhibited a reckless and wanton
22 indifference to the life of DEJANI MONETTE HALL and others, Plaintiff asks this Court to
23 award him for damages in sufficient amount to compensate him for the loss of his daughter
24 DEJANI MONETTE HALL, for his pain and suffering and loss of company and comfort caused
25 by that loss, and to cause defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each
26 of them, to take such steps as are necessary to reduce the risk of great bodily and death to children
27 and others along this stretch of track in the future.
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JURISDICTION AND VENUE

9. This Court has original jurisdiction over this action and the claims asserted against defendant, NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK (herein referred to as "AMTRAK") under 28 U.S.C. § 1331 because AMTRAK was incorporated by an Act of Congress, 45 U.S.C. §§ 501, et seq., and the United States owns more than 50% of AMTRAK's capital stock. 28 U.S.C. § 1349; *In Re Rail Collision Near Chase*, Maryland, 680 F. Supp. 728, 731 (D. Md. 1987). (Exhibit 1 - National Railroad Passenger Corporation's Certification of Interested Parties filed in this matter on May 2, 2019).

10. The action and the claims against the other named defendants, (with the exception of BNSF RAILWAY COMPANY) who are represented by counsel for AMTRAK, were removed on motion of counsel, from the Superior Court of the State of California, County of Contra Costa, under 28 U.S.C § 1441, with the consent of the other named defendants. As a result of their joinder in the Notice to Remove and consent to the removal of the action and claims to this Court, this Court has jurisdiction over this action and the claims against the other named defendants (With the exception of BNSF RAILWAY COMPANY). (Exhibit 2 - Notice of Removal filed in this matter on April 29, 2019, p 2, lines 26-27.).

11. This Court has supplemental jurisdiction over Plaintiff's claims that arise under state law pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

12. Venue is proper in this Court under 28 U.S.C. § 1391(b) because all or a substantial part of the events or omissions giving rise to the claims herein alleged occurred in this district and all defendants reside in or are or were engaged in doing business in Merced County and this Court's district at all relevant times or have consented to this Court as being the proper venue.

PARTIES

13. Plaintiff, RANDY LEE HALL, is a competent adult and the surviving father of the deceased, DEJANI MONETTE HALL, and brings this action individually and as the successor-in-interest to the deceased, DEJANI MONETTE HALL.

14. Plaintiff, RANDY LEE HALL, is entitled to bring this action as the successor-in-interest pursuant to California Code of Civil Procedure §§ 377.20–377.43 and for the wrongful death of the deceased, DEJANI MONETTE HALL, pursuant to California Code of Civil Procedure § 377.60, and based on his relationship as her father and as the duly appointed, qualified, and acting personal representative of the estate of decedent. (Exhibit 3 – Order of Probate, Superior Court of California, Contra Costa County, Case number P19-01290; Exhibit 4 – Letters of Special Administration, Superior Court of California, Contra Costa County, Case number P19-01290).

15. Defendant, AMTRAK, is a District of Columbia corporation that was authorized to be created by the *Rail Passenger Act*, 49 U.S.C. § 24101, et seq., with its principal place of business in California located at their Los Angeles Field Office which is located at 810 N. Alameda St., Suite 129, Los Angeles, California.

16. Defendant, AMTRAK, is, and at all times mentioned in this Complaint, was doing business throughout the State of California including, but not limited to, Merced, County, California and the City of Merced with its principal place of business in Merced County being the Merced Depot located at 324 West 24th Street in the City of Merced which is owned, operated, and maintained by defendant, AMTRAK. Defendant, AMTRAK, in some manner, either solely or individually, owned, controlled, operated, supervised, managed, secured, patrolled and/or maintained the area of railroad tracks that defendant, AMTRAK, was travelling on at around 7:00

1 p.m., on August 4, 2016 when AMTRAK train number 71704 struck, injured and killed DEJANI
2 MONETTE HALL.

3 17. Defendant, AMTRAK, is, and at all times herein mentioned was, a common carrier of
4 passengers for reward, and as such offered the use of railroad cars owned by defendant,
5 AMTRAK, with operators employed by defendant, AMTRAK, to the public for hire in and
6 between various points in Merced County, California and, as such, defendant, AMTRAK, is, and
7 all times herein mentioned was, a "public utility" as defined by California Public Utilities Code
8 § 216
9

10 18. Defendant, AMTRAK, as a public utility is liable for all loss, damages or injury caused
11 by or resulting from any act, matter or thing they do, cause to be done, permit to be done, or omit
12 to do that is unlawful and are liable for exemplary damages if such act, matter or thing they do,
13 cause to be done, permit to be done or omit to do is willful.
14

15 19. At all times mentioned herein, Defendant, JONATHAN STASKA, was an employee of
16 defendant, AMTRAK, was the engineer operating AMTRAK train number 71704, at the time
17 DEJANI MONETTE HALL was struck and injured and killed on and around 7:00 p.m., on
18 August 4, 2016, and was an agent and employee of defendant, AMTRAK, and, and in doing the
19 things herein alleged, was acting within the scope of his authority as an agent and employee of
20 defendant, AMTRAK, and with the consent and permission of defendant AMTRAK.
21

22 20. At all times mentioned herein, Defendant, DENISE HOGG, was an employee of
23 defendant, AMTRAK, was the conductor of AMTRAK train number 71704, at the time DEJANI
24 MONETTE HALL was struck, injured and killed on and around 7:00 p.m., on August 4, 2016,
25 and was an agent and employee of defendant, AMTRAK, and, and in doing the things herein
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1 alleged, was acting within the scope of his authority as an agent and employee of defendant,
2 AMTRAK, and with the consent and permission of defendant AMTRAK

3 21. At all times mentioned herein, Defendant, MICHAEL JOHN TORRENCE, was an
4 employee of defendant, AMTRAK, was the assistant conductor of AMTRAK train number 71704,
5 at the time DEJANI MONETTE HALL was struck, injured and killed on and around 7:00 p.m.,
6 on August 4, 2016, and was an agent and employee of defendant, AMTRAK, and, and in doing
7 the things herein alleged, was acting within the scope of his authority as an agent and employee
8 of defendant, AMTRAK, and with the consent and permission of defendant AMTRAK.
9

10 22. Defendants, JONATHAN STASKA, DENISE HOGG, and MICHAEL JOHN
11 TORRENCE consented to the removal of the action and claims to this Court and, as such, this
12 Court has jurisdiction over this action and the claims against them. (Supra, Paragraph 3. See also,
13 Exhibit 2 - Notice of Removal filed in this matter on April 29, 2019, p 2, lines 26-27.)
14

15 23. Defendant, BNSF RAILWAY COMPANY, is a Delaware corporation (Exhibit 5 –
16 Amended Statement by Foreign Corporation filed January 21, 2005) with its principal place of
17 business in California located at 740 Carnegie Drive, San Bernardino, California 92408.
18

19 24. Defendant, BNSF RAILWAY COMPANY, is and at all times mentioned in this
20 Complaint was doing business throughout the State of California including, but not limited to,
21 Merced, County, California and in some manner, either solely or individually, owned, controlled,
22 operated, supervised, managed, secured, patrolled and/or maintained the area of railroad tracks
23 that defendant, AMTRAK, was travelling on at around 7:00 p.m., on August 4, 2016 when
24 AMTRAK train number 71704 struck and injured and killed DEJANI MONETTE HALL.
25

26 25. Defendant, BNSF RAILWAY COMPANY, is, and all times herein mentioned was, a
27 common carrier of persons and/or property for reward, and as such offered the use of railroad cars
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1 owned by defendant, BNSF RAILWAY COMPANY, with operators employed by defendant,
2 BNSF RAILWAY COMPANY, to the public for hire in and between various points in Merced
3 County, California and, as such, defendant, BNSF RAILWAY COMPANY, is, and all times
4 herein mentioned was, a "public utility" as defined by California Public Utilities Code § 216.
5

6 26. Defendant, BNSF RAILWAY COMPANY, as a public utility is liable for all loss,
7 damages or injury caused by or resulting from any act, matter or thing they do, cause to be done,
8 permit to be done, or omit to do that is unlawful and are liable for exemplary damages if such act,
9 matter or thing they do, cause to be done, permit to be done or omit to do is willful.
10

11 27. Defendants DOES 1 through 49, inclusive, are sued herein under fictitious names. Their
12 true names and capacities are unknown to plaintiff. When their true names and capacities are
13 ascertained, plaintiff will amend this complaint by inserting their true names and capacities herein.
14 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
15 defendants is responsible in some manner for the occurrences herein alleged, and that plaintiff's
16 damages as herein alleged were proximately caused by such defendants.
17

18 GENERAL ALLEGATIONS

19 28. On and around 7:00 p.m. Pacific Standard Time, August 4, 2016, the deceased, DEJANI
20 MONETTE HALL, was walking westbound along the southside or western traffic side of railroad
21 tracks that are in some manner, either jointly or individually, owned, controlled, operated,
22 supervised, managed, secured, patrolled and/or maintained by defendants, BNSF RAILWAY
23 COMPANY, and/or by AMTRAK, and each of them.
24

25 29. The area of track on which DEJANI MONETTE HALL walked is located near the
26 intersection of Santa Fe and Glen Avenues in the City of Merced between Hoover Middle School
27 and a highly populated residential area. Hoover Middle School is immediately to the north of the
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1 northside or east bound track on Santa Fe Avenue. The highly populated residential area is located
2 immediately to the south of the tracks. Both sides of the tracks contain trails with the south side
3 containing both trails and a dirt road that is used by children and others to access the
4 neighborhoods to the south and to cross over to Santa Fe Avenue and the Hoover Middle School.
5 This area is also known to be regularly utilized by homeless and other transient people such that
6 the area along the tracks where there are trees and shrubs is avoided by walking up and on and
7 along the tracks. The southside of the tracks in this area is known by the defendants and each of
8 them, to be utilized by pedestrian traffic because all pedestrian traffic that accesses the south side
9 of the tracks from the north side through the pedestrian underpass must use the trail on the
10 southside of the tracks to access the residential area to the south of the tracks, Glen Avenue to the
11 east, and G Street to the west. The trail along the southside of the tracks is also the entrance point
12 to a pedestrian underpass which leads under the tracks to Santa Fe Avenue. Because of the smell
13 of urine, human waste and the perceived risk of confrontation or victimization by persons in and
14 around the underpass, children and pedestrian traffic cross over the tracks rather than use the
15 pedestrian underpass.

19 30. The underpass was constructed because of known risk of death or great bodily injury to
20 children and others who regularly crossed over the tracks in this area to pass from the southside
21 (residential neighborhood) to the Hoover Middle School and/or the northside (Santa Fe Avenue).
22 The underpass, however, is only accessed through the trails that run along the south and north of
23 the tracks. This regular traffic by children and others crossing over the tracks and along the trails
24 to the south and north of the tracks in this area is well known to defendants, and each of them.

26 31. For all of the above reasons, defendants, and each of them knew and know that this area
27 of track, at all times mentioned in this complaint, posed a local, specific individual safety hazard
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1 as they knew and know that that this section of track, which is located between Hoover Middle
2 School and a populated residential area that children and others regularly, was and is consistently
3 and continuously crossed over and walked along by children get to and from school and by other
4 or to Santa Fe and Glen Avenues and/or G Street. As such defendants, and each of them, knew
5 and know that their failure to construct fencing or other impediment to prevent children and others
6 from walking over and along the tracks in this area constituted actual or constructive permission,
7 and/or authority and license by defendants, BNSF RAILWAY COMPANY and/or AMTRAK,
8 and each of them, to children and others to walk over and along this area of tracks. Defendants,
9 and each of them, actually or constructively knew further that their failure had created such
10 extensive public use and access of the tracks and land along this section of track that the children
11 and others that walked over and along the tracks were not trespassers but were, rather, invitees
12 with constructive or actual permission, authority and license from defendants, BNSF RAILWAY
13 COMPANY and/or AMTRAK, and each of them, to cross over and walk along the tracks.

16
17 32. This license to children and others to walk over and along this area of tracks was actually
18 or constructively created by defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and
19 each of them, because the presence of children and others walking along and over the tracks along
20 that stretch of track was actually known by defendants, BNSF RAILWAY COMPANY and/or
21 AMTRAK, and each of them, to be so regular, continuous, unimpeded, uninterrupted, and
22 anticipated by defendants, and each of them, that the conduct of defendants, BNSF RAILWAY
23 COMPANY and/or AMTRAK, and each of them, in not constructing fencing or other
24 impediments to children and others walking along and over the tracks could and can only be
25 reasonably interpreted by others as permission and authority from defendants, BNSF RAILWAY
26 COMPANY and/or AMTRAK.
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1 33. Defendants, and each of them, by driving trains or by authorizing or permitting trains to
2 be driven at speeds of 60 miles per hour as authorized by 49 C.F.R. 213.9, through this area of
3 tracks that each of them knew, at all times mentioned in this complaint, posed a local, specific
4 individual safety hazard to children and others that crossed over and walked along the tracks and
5 that their failure to construct fencing or other impediments to prevent children and others from
6 crossing over and walking along the tracks had created an actual or constructive license for
7 children and others to walk over and along the tracks, exhibited such callous, reckless and wanton
8 indifference to the lives of children and others that the conduct of defendants, and each of them,
9 should be interpreted as intentional and wanton for which defendants, and each of them, are
10 subject to exemplary damages.
11

12 34. The deceased, DEJANI MONETTE HALL, was walking along the tracks instead of on
13 the dirt road because of the presence of trees and shrubs along the dirt road that was frequented
14 by homeless and transient people. As DEJANI MONETTE HALL began walking westbound
15 along the tracks an eastbound train was travelling on the northside track. Unknown to DEJANI
16 MONETTE HALL, AMTRAK train number 71704 was approaching her from behind. AMTRAK
17 train number 71704, despite entering this area of track that was known to pose a local, specific
18 individual safety hazard to children and others that were walking over and along the track with
19 the actual or constructive permission and authority of BNSF RAILWAY COMPANY and/or
20 AMTRAK, and each of them, was travelling toward DEJANI MONETTE HALL at 60 miles per
21 hour.
22

23 35. Defendant, JONATHAN STASKA, the engineer operating AMTRAK train number
24 71704, chose to enter this area of track without slowing down to a speed that would enable him
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1 to avoid great bodily injury or death to children or others crossing over or walking along the tracks,
2 exhibiting a callous indifference to the risk of great bodily injury or death to children or others.

3 36. Shortly after passing through the train crossing on Glen Avenue, JONATHAN STASKA,
4 the engineer operating AMTRAK train number 71704, noticed DEJANI MONETTE HALL
5 walking along the southside of the tracks. JONATHAN STASKA, the engineer operating
6 AMTRAK train number 71704, sounded the train horn to get her attention and, after seeing that
7 she did not hear the train horn applied the emergency brakes to the train and approximately 1,000
8 feet west from the railroad crossing on Glen Avenue, approximately 700 feet west of the
9 pedestrian underpass, and 20 seconds or less after JONATHAN STASKA, the engineer operating
10 AMTRAK train number 71704, noticed DEJANI MONETTE HALL, walking along the tracks,
11 AMTRAK train number 71704 struck DEJANI MONETTE HALL from behind without her
12 having any opportunity to take evasive action to avoid being struck.
13

14
15 37. After DEJANI MONETTE HALL was struck, JONATHAN STASKA, the engineer
16 operating AMTRAK train number 71704, stopped the train and defendants, JONATHAN
17 STASKA, DENISE HOGG, and MICHAEL JOHN TORRENCE, exited the train and approached
18 her body. Although she was still alive, rather than attempt to begin CPR or do any act to prevent
19 her from dying, defendants, JONATHAN STASKA, DENISE HOGG, and MICHAEL JOHN
20 TORRENCE, covered her with a blue tarp and waited for emergency personnel to arrive.
21

22 38. On arrival at the area where DEJANI MONETTE HALL lay covered with blue tarp,
23 Merced Police Officer Cruz, badge number 226, noticed that DEJANI MONETTE HALL was
24 still breathing and he began CPR and continued it until the Riggs Ambulance crew arrived.
25 Shortly after the Riggs Ambulance crew arrived, they pronounced DEJANI MONETTE HALL
26 deceased.
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1 39. It is presumed that DEJANI MONETTE HALL mistook the train horn being sounded by
2 AMTRAK train number 71704 either being farther behind her than it actually was or as the train
3 horn to eastbound train on the northside track.
4

5 FIRST CAUSE OF ACTION
6 (Gross Negligence and Negligence of Carrier)
7 (California Civil Code §§ 1714(a), 3333)
8 (All defendants)
9

10 40. Plaintiff hereby refers to Paragraphs 1 through 39 of this Complaint and incorporates them
11 by reference herein and makes them a part hereof as if stated again herein in full.
12

13 41. At all times herein mentioned, defendants, and each of them, knew that area of track where
14 DEJANI MONETTE HALL was struck, injured and killed was a local, specific individual safety
15 hazard and that the failure of defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and
16 each of them, to install warnings and/or construct fencing or other impediments to prevent
17 children and others from crossing over and walking along the tracks had created an actual or
18 constructive license for children and others to walk over and along the tracks.
19

20 42. As a result of the above, BNSF RAILWAY COMPANY and/or AMTRAK, and each of
21 them, had a duty to install warnings and/or construct fencing or other impediments to prevent
22 children and others from crossing over and walking along the tracks and they failed to do so.
23

24 43. As a result of their failure, BNSF RAILWAY COMPANY and/or AMTRAK, and each
25 of them, actually and/or constructively gave permission and/or authorized children and others to
26 cross over and walk along this area of track.
27

28 44. Despite the actual and constructive knowledge by defendants, and each of them, of this
specific individual safety hazard and the license for children and others to cross over and walk
along the tracks granted by BNSF RAILWAY COMPANY and/or AMTRAK, and each of them,
defendants, and each of them, drove AMTRAK train number 71704, or permitted it to be driven,

1 through the area of track where DEJANI MONETTE HALL was struck at speeds of 60 miles per
2 hour as authorized by 49 C.F.R. 213.9, instead of at a speed that would reduce the risk of great
3 bodily injury or death to children or others crossing over walking along the track.

4
5 45. Such actions by defendants alleged in this complaint, and each of them, and/or failures to
6 act exhibits a conscious and callous indifference to, or disregard of, probable great bodily injury
7 or death to children and others, including DEJANI MONETTE HALL, by defendants, and each
8 of them, and constitutes gross negligence.

9
10 46. As an actual and proximate result of the deliberate, wanton, conscious and callous
11 indifference to the potential for great bodily injury or death to children and others, including
12 DEJANI MONETTE HALL, their gross or other negligence, DEJANI MONETTE HALL, was
13 struck, injured and killed.

14 47. At all times prior to her death, DEJANI MONETTE was a faithful and dutiful daughter of
15 plaintiff, RANDY LEE HALL, whose loss he continues to mourn today.

16
17 48. As an actual and proximate result of the acts, or failure to act, by defendants, and each of
18 them, that resulted in the death of DEJANI MONETTE HALL, plaintiff, RANDY LEE HALL,
19 has sustained pecuniary loss resulting from the loss of the society, comfort, attention, services,
20 and support of decedent in the future.

21
22 49. As a further proximate result of the acts or failure to act, by defendants, and each of them,
23 plaintiff, RANDY LEE HALL, incurred funeral and burial expenses.

24 SECOND CAUSE OF ACTION
25 (Dangerous Condition Creating Risk of Great Bodily Injury or Death)
26 (BNSF RAILWAY COMPANY and AMTRAK)

27 50. Plaintiff hereby refers to Paragraphs 1 through 49 of this Complaint and incorporates them
28 by reference herein and makes them a part hereof as if stated again herein in full.

1 51. At the times and place herein mentioned, defendants, BNSF RAILWAY COMPANY
2 and/or AMTRAK, and each of them, deliberately, wantonly, consciously and with callous
3 indifference to or with disregard of the probable great bodily injury or death to children and others,
4 including DEJANI MONETTE HALL, failed to maintain, mismanaged, failed to control, or
5 engage in business on the above property that they, in some manner, either solely or individually,
6 they owned, controlled, operated, supervised, managed, secured, patrolled and/or maintained.

8 52. Such acts or failures to act that are described above constituted breach of duty to plaintiff,
9 DEJANI MONETTE HALL and to Plaintiff, RANDY LEE HALL.

11 53. Defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them, knew,
12 or in the exercise of reasonable care should have known, that their acts or failures to act created
13 a dangerous condition and unreasonable risk of harm.

14 54. Defendants, BNSF RAILWAY COMPANY and/or AMTRAK, and each of them,
15 deliberately, wantonly, consciously and callously and with indifference to the potential for great
16 bodily injury or death to children and others, including DEJANI MONETTE HALL, failed to
17 take steps to either make the condition safe or warn DEJANI MONETTE HALL of the dangerous
18 conditions caused by their acts or failures to act including, but not limited to, warning that their
19 trains were driving at a speed that was unsafe in light of the local, specific individual safety hazard
20 created by the location of the tracks between the Hoover Middle School and the populated
21 residential area and the trail and road along the tracks and their failure to construct fencing or
22 other impediments to children and others walking over or along the tracks.

25 55. Such acts or failures to act alleged in this complaint by defendants, and each of them,
26 exhibited a deliberate, wanton, conscious and callous indifference to, or disregard of, probable
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1 great bodily injury or death to children and others, including DEJANI MONETTE HALL, by
2 defendants, and each of them, and constitutes indifference to gross negligence.

3 56. As an actual and proximate result of the deliberate, wanton, conscious and callous
4 indifference to the potential for great bodily injury or death to children and others, including
5 DEJANI MONETTE HALL, their gross or other negligence, DEJANI MONETTE HALL, was
6 struck, injured and killed.

7
8 57. At all times prior to her death, DEJANI MONETTE was a faithful and dutiful daughter of
9 plaintiff, RANDY LEE HALL, whose loss he continues to mourn today.

10
11 58. As an actual and proximate result of the acts, or failure to act, by defendants, and each of
12 them, that resulted in the death of DEJANI MONETTE HALL, plaintiff, RANDY LEE HALL,
13 has sustained pecuniary loss resulting from the loss of the society, comfort, attention, services,
14 and support of decedent in the future.

15
16 59. As a further proximate result of the acts or failure to act, by defendants, and each of them,
17 plaintiff, RANDY LEE HALL, incurred funeral and burial expenses.

18 THIRD CAUSE OF ACTION
19 (Wrongful Death)
20 (California Civil Code § 377.60)
(All defendants)

21 60. Plaintiff hereby refers to Paragraphs 1 through 59 of this Complaint and incorporates them
22 by reference herein and makes them a part hereof as if stated again herein in full.

23 61. Plaintiff, RANDY LEE HALL, is entitled under California Code of Civil Procedure §
24 377.60(a) as he would be entitled to the property of the deceased, DEJANI MONETTE HALL,
25 under the laws of intestate succession in the State of California in that DEJANI MONETTE
26 HALL died without a surviving spouse, domestic partner, children, or issue of deceased children
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1 and he is her father and is entitled to the property of the deceased under California Probate Code
2 § 6402(b).

3 62. As an actual and proximate result of the acts of or failure of act by defendants, and each
4 of them, alleged above and of the death of decedent, DEJANI MONETTE HALL, plaintiff,
5 RANDY LEE HALL, has sustained pecuniary loss resulting from the loss of the society, comfort,
6 attention, services, and support of his daughter, DEJANI MONETTE HALL.

7 63. As a further actual and proximate result of the acts of or failure of act by defendants, and
8 each of them, and of the death of decedent, DEJANI MONETTE HALL, plaintiff, RANDY LEE
9 HALL, has incurred funeral and burial expenses.
10

11
12 PRAYER FOR RELIEF

13 WHEREFORE, plaintiff prays judgment as follows:

14 FOR THE FIRST CAUSE OF ACTION

- 15 1. For general damages according to proof;
16 2. For medical and related expenses for DEJANI MONETTE HALL according to proof;
17 3. For funeral and burial expenses for DEJANI MONETTE HALL according to proof;
18 4. For interest on all economic damages in the legal amount from the date of death of
19 DEJANI MONETTE HALL, to the date of judgment;
20 5. For punitive damages;
21 6. For costs of suit herein incurred; and
22 7. For such other and further relief as the court may deem proper.
23
24

25 FOR THE SECOND CAUSE OF ACTION

26 Plaintiff prays judgment against defendants, and each of them, as follows:

- 27 1. For general damages according to proof;
28

2. For medical and related expenses for DEJANI MONETTE HALL according to proof;
3. For funeral and burial expenses for DEJANI MONETTE HALL according to proof;
4. For interest on all economic damages in the legal amount from the date of death of DEJANI MONETTE HALL, to the date of judgment;
5. For special damages according to proof;
6. For costs of suit herein incurred; and
7. For such other and further relief as the court may deem proper

FOR THE THIRD CAUSE OF ACTION

Plaintiff prays judgment against defendant as follows:

1. For general damages for severe emotional distress and mental suffering according to proof;
2. For medical and related expenses for DEJANI MONETTE HALL according to proof;
3. For funeral and burial expenses for DEJANI MONETTE HALL according to proof;
4. For interest on all economic damages in the legal amount from the date of death of DEJANI MONETTE HALL, to the date of judgment;
5. For costs of suit herein incurred; and
6. For such other and further relief as the court may deem proper.

Dated: 4/10/2020

By: 

Paul V. Gallegos
GALLEGOS LAW FIRM
Attorneys for Plaintiff,
RANDY LEE HALL

Exhibit 1

VINCENT CASTILLO, State Bar No. 209298
 vcastillo@aghwlaw.com
 ALEXEI N. OFFILL-KLEIN, State Bar No. 288448
 aklein@aghwlaw.com
 ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
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 San Francisco, CA 94104
 Telephone: (415) 697-2000
 Facsimile: (415) 813-2045

Attorneys for Defendants
 NATIONAL RAILROAD PASSENGER CORPORATION
 dba AMTRAK, JONATHAN STASKA, DENISE HOGG,
 and MICHAEL JOHN TORRENCE

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

RANDY LEE HALL,

Plaintiff,

v.

AMTRAK, NATIONAL RAILROAD
 PASSENGER CORPORATION
 (AMTRAK), RICHARD H. ANDERSON
 President and Chief Executive Officer,
 ELEANOR D. ACHESON-Executive Vice
 President and General Counsel &
 Corporate Secretary, KENNETH
 HYLANDER-Executive Vice President
 and Chief Safety Officer, JONATHAN
 STASKA-Engineer Driver, DENISE
 HOGG-Conductor, MICHAEL JOHN
 TORRENCE-Assistant Conductor, and
 DOES 1 to 50, inclusive,

Defendants.

Case No. 3:19-cv-02312-LB

**NATIONAL RAILROAD PASSENGER
 CORPORATION'S CERTIFICATION OF
 INTERESTED ENTITIES**

Hon. Laurel Beeler

Trial: None set.

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1 National Railroad Passenger Corporation (Amtrak) is a District of Columbia corporation
2 that was authorized to be created by the Rail Passenger Service Act, 49 U.S.C. § 24101, et seq.

3 Amtrak has no parent corporation. It has two wholly owned subsidiaries: Passenger
4 Railroad Insurance Limited (PRIL) and Washington Terminal Company (WTC).

5 The United States holds, through the U.S. Secretary of Transportation, 100% of Amtrak's
6 preferred stock (109,396,994 shares at \$100 par value). Amtrak's common stock (9,385,694
7 shares at \$10 par value) is held by American Premier Underwriters, Inc. (55.8%; a wholly owned,
8 not publicly traded, subsidiary of American Financial Group, Inc., which is publicly traded),
9 Burlington Northern and Santa Fe LLC (35.7%; BNSF LLC is a wholly-owned, not publicly
10 traded, subsidiary of Berkshire Hathaway, which is publicly traded) Canadian Pacific Railway
11 (6.3%), and Canadian National Railway (2.2%). None of Amtrak's stock is publicly traded.

12
13
14 Respectfully submitted,

15 Dated: May 2, 2019

16 ALLEN, GLAESSNER,
17 HAZELWOOD & WERTH, LLP

18 By: /s/ Vincent Castillo

19 VINCENT CASTILLO
20 ALEXEI N. OFFILL-KLEIN
21 Attorneys for Defendants
22 NATIONAL RAILROAD PASSENGER
23 CORPORATION dba AMTRAK,
24 JONATHAN STASKA, DENISE HOGG, and
25 MICHAEL JOHN TORRENCE
26
27
28

PROOF OF SERVICE

Randy Lee Hall v. Amtrak et al.

U.S. Northern District Case No. 3:19-cv-02312-LB

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Francisco; my business address is: 180 Montgomery Street, Suite 1200, San Francisco, California 94104. On May 2, 2019, I served the within:

NATIONAL RAILROAD PASSENGER CORPORATION'S CERTIFICATION OF INTERESTED ENTITIES

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

Randy Lee Hall
1006 Regatta Point
Hercules, CA 94547

T: (510) 812-3139

Plaintiff Pro Per

☒ By United States Mail: I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

☒ I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on May 2, 2019, at San Francisco, California.

/s/ Adrian Castaneda

Adrian Castaneda

Exhibit 2

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San Francisco, California 94104

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Attorneys for Defendants
NATIONAL RAILROAD PASSENGER CORPORATION
dba AMTRAK, JONATHAN STASKA, DENISE HOGG,
and MICHAEL JOHN TORRENCE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RANDY LEE HALL,

Plaintiff,

v.

AMTRAK, NATIONAL RAILROAD
PASSENGER CORPORATION
(AMTRAK), RICHARD H. ANDERSON
President and Chief Executive Officer,
ELEANOR D. ACHESON-Executive Vice
President and General Counsel &
Corporate Secretary, KENNETH
HYLANDER-Executive Vice President
and Chief Safety Officer, JONATHAN
STASKA-Engineer Driver, DENISE
HOGG-Conductor, MICHAEL JOHN
TORRENCE-Assistant Conductor, and
DOES 1 to 50, inclusive,

Defendants.

Case No.

NOTICE OF REMOVAL BY DEFENDANTS

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ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
 180 Montgomery Street, Suite 1200
 San Francisco, California 94104

Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK (erroneously sued as "Amtrak, National Railroad Passenger Corporation (Amtrak)"), JONATHAN STASKA, DENISE HOGG, and MICHAEL JOHN TORRENCE (collectively, "Defendants") allege as follows:

1. On August 2, 2018, plaintiff Randy Hall filed a Complaint in the Superior Court of the State of California, County of Contra Costa, entitled *Randy Lee Hall v. Amtrak, et al.*, Case No. C18-01545. The Complaint names as defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK (erroneously sued as "Amtrak, National Railroad Passenger Corporation (Amtrak)") and Amtrak employees RICHARD H. ANDERSON, ELEANOR D. ACHESON, KENNETH HYLANDER, JONATHAN STASKA, DENISE HOGG, and MICHAEL JOHN TORRENCE. A true and correct copy of that unverified Complaint is attached hereto as **Exhibit A**.

2. The Summons and Complaint were served upon NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK ("Amtrak") on April 1, 2018.

3. This Court has original jurisdiction over plaintiff's claims against Amtrak under 28 U.S.C. § 1331 because Amtrak was incorporated by an Act of Congress, 45 U.S.C. § 501, *et seq.*, and the United States of America owns more than 50% of Amtrak's capital stock. 28 U.S.C. § 1349; *In re Rail Collision Near Chase, Maryland*, 680 F.Supp. 728, 731 (D.Md. 1987).

4. The removal of this action to this Court is proper under 28 U.S.C. § 1441(a) because this is a civil action over which the district courts of the United States have original jurisdiction, and this District Court embraces the place in which the state action is pending.

5. According to the Contra Costa County Superior Court's online docket, plaintiff filed a First Amended Complaint on April 29, 2019. Defendant has not yet received a copy of the First Amended Complaint, but the online docket indicates that plaintiff has dismissed defendants Richard H. Anderson, Eleanor D. Acheson, and Kenneth Hylander.

6. Accordingly, this Notice of Removal is brought on behalf of each remaining named defendant, and each remaining named defendant joins and consents to removal.

7. Unidentified defendants sued as "Does" need not join in a Notice of Removal.

1 *Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1313 (9th Cir. 1980).

2 8. Thus, this Notice of Removal is timely and proper.

3 9. A copy of the Notice of Removal to Federal Court that will be filed with the
4 Contra Costa County Superior Court is attached hereto as **Exhibit B**.

5 WHEREFORE, Defendants pray that this action be removed to this Court.

6
7
8 Respectfully submitted,

9 Dated: April 29, 2019

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

10
11 By: /s/ Alexei N. Offill-Klein

VINCENT CASTILLO

ALEXEI N. OFFILL-KLEIN

Attorneys for Defendants

12 NATIONAL RAILROAD PASSENGER
13 CORPORATION dba AMTRAK,
14 JONATHAN STASKA, DENISE HOGG, and
15 MICHAEL JOHN TORRENCE
16
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EXHIBIT A

1 RANDY LEE HALL
2 1006 Regatta Point
3 Hercules, CA 94547
4 Tele: (510) 812-3139

5 Plaintiff, RANDY L. HALL
6 in propria persona

FILED
AUG 02 2018
K. BIEKER CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
BY: D. WILSON, CLERK OF COURT

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF CONTRA COSTA
10 UNLIMITED JURISDICTION
11

PER LOCAL RULE, THIS
CASE IS ASSIGNED TO
DEPT 9, FOR ALL
PURPOSES.

12 RANDY LEE. HALL,

13 Plaintiff,

14 v.

15 AMTRAK, NATIONAL RAILROAD
16 PASSENGER CORPORATION
17 (AMTRAK), RICHARD H. ANDERSON
18 President and Chief Executive Officer,
19 ELEANOR D. ACHESON-Executive Vice
20 President and General Counsel & Corporate
21 Secretary, KENNETH HYLANDER-
22 Executive Vice President and Chief Safety
23 Officer, JONATHAN STASKA-Engineer
24 Driver, DENISE HOGG-Conductor,
25 MICHAEL JOHN TORRENCE-Assistant
26 Conductor, and DOES 1 to 50, inclusive,

27 Defendants.
28

Case No.: C18-01545

COMPLAINT FOR DAMAGES

- 1) First Cause of Action
GROSS NEGLIGENCE
- 2) Second Cause of Action
Dangerous Condition of Public
and Private Property
For attorney fees and costs of suit

JURY TRIAL DEMAND

Plaintiff, RANDY L. HALL alleges as follows:

I.

General Allegations

Applicable to All Causes of Action

- 1 1. Plaintiff, RANDY L. HALL hereinafter ("HALL") is a resident of Hercules,
2 California and a resident of the State of California.
- 3 2. Defendant, JONATHAN STASKA-Engineer Driver of the Train which struck and
4 killed the victim DeJani Monette Hall-who is the Daughter of Plaintiff Hall, DENISE
5 HOGG-Conductor and MICHAEL JOHN TORRENCE-Assistant Conductor of the
6 train assisted in the killing of victim DeJani Monette Hall. The above individuals
7 personally and individually assisted in the striking and killing Ms. Hall and are trained
8 to drive and conduct the Amtrak trains in the state of California. Defendant,
9 AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK),
10 is a Private Company which performs the service to the Public to transport Passengers
11 via Trains. Defendants, headquarters are located at 10 G St NW, Washington, DC
12 20001. Ms. DeJani Monette Hall was killed in Merced California by defendants on
13 08/04/2016, August 04th, 2016 at approximately 18:40 while the deceased was walking
14 to the gyn to work out, as she takes the same route everyday to walk to the gym In-
15 Shape in Merced California.
- 16 3. Defendant, AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION
17 (AMTRAK), is a business which performs transportation of passengers including
18 children. Defendant, AMTRAK, NATIONAL RAILROAD PASSENGER
19 CORPORATION (AMTRAK), is located across the United State of America and in
20 Merced, California.
- 21 4. DOES 1-50 inclusive, are sued herein under fictitious names. Their true names and
22 capacities are unknown to Hall. When their true names and capacities are ascertained,
23 Hall will amend this complaint by inserting their true names and capacities herein.
24 Hall is informed and believes and thereon alleges that each of the fictitiously named
25 defendants is responsible in some manner for the occurrences herein alleged, and that
26 Hall's damages as herein alleged were proximately caused by those defendants. Each
27 reference in this complaint to "defendant," "defendants," or a specifically named
28 defendant refers also to all defendants sued under fictitious names.

5. At all times material as alleged herein, each defendant was the agent, servant and/or employee of each of the remaining defendants, and acted within the purpose, scope and course of said agency, service and employment, with the express and/or implied knowledge, permission and consent of the remaining defendants, and each of them, and each of said defendants ratified and approved the acts of the other defendants.
6. In or about August 04th of 2016, DeJani M. Hall, was walking to the In-Shape gym as she does regularly. Defendant, JONATHAN STASKA-Engineer is the Driver of the Train which struck and killed the victim DeJani Monette Hall. DENISE HOGG-Conductor and MICHAEL JOHN TORRENCE-Assistant Conductor of the train assisted in the killing of victim DeJani Monette Hall. Neither of the three Defendants assisted to preserved the life of Ms. Hall by attempting to administer CPR of any kind and neither even stood by the victim Ms. Hall to comfort her-near her death in any fashion, and allowed her to die at the hands of their negligent actions to her death.
7. AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
8. After providing all alleged training to it's employees failed and refused to train it's employees to render any type of first aid to a "victim(s)" Ms. Hall-struck by their employees via it's train in the City of Merced, state of California.
9. DeJani M. Hall was injured then killed as a result of these inadequate and non-initiated First Aid, lack of training of AMTRAK employees, and lack of life sustaining devices installed to alert the hearing impaired, Victim Ms. Hall, near an approaching train.
10. Defendants' conduct was malicious, fraudulent, and oppressive, and justifies the imposition of punitive damages for his/their gross negligence.

II.

First Cause of Action

GROSS NEGLIGENCE

(Against all defendants)

12. COMES NOW, PLAINTIFFS, RANDY LEE. HALL WHO COMPLAINS AND

1 ALLEGES AGAINST DEFENDANTS AND EACH OF THEM, AS FOLLOWS:

2 13. (For Negligence Against Defendants AMTRAK, NATIONAL RAILROAD
3 PASSENGER CORPORATION (AMTRAK), RICHARD H. ANDERSON President
4 and Chief Executive Officer, ELEANOR D. ACHESON-Executive Vice President
5 and General Counsel & Corporate Secretary, KENNETH HYLANDER-Executive
6 Vice President and Chief Safety Officer, JONATHAN STASKA-Engineer Driver,
7 DENISE HOGG-Conductor, MICHAEL JOHN TORRENCE-Assistant Conductor,
8 and DOES 1 to 50, inclusive the following cause of action against defendants:

9 14. Plaintiff, RANDY LEE. HALL is, and at all times herein mentioned are, individuals
10 residing in the County of Contra Costa, State of California.

11 The true names and/or capacities, whether individual, corporate, associate or
12 otherwise of defendants 1 through 50, inclusive, are unknown to plaintiff at this time
13 who, therefore, sue said defendants by such fictitious names. Plaintiffs are informed
14 and believe and thereupon alleges that each of the defendants fictitiously named
15 herein as a Doe is legally responsible, negligently or in some other actionable manner,
16 for the events and happenings hereinafter referred to and that the acts and omissions of
17 said defendants was a legal cause of the injury to plaintiffs and the resulting injury and
18 damages to plaintiff as hereinafter alleged. Plaintiff will amend this Complaint to
19 assert the true names and/or capacities of such fictitiously named defendants when the
20 same have been ascertained.

21 15. Plaintiff are informed and believe and thereupon alleges that, at all times mentioned
22 herein, defendants were the agents, servants, employees, successors-in-interest and/or
23 joint venturers of their co-defendants and were, as such, acting within the purpose,
24 course, scope and authority of said agency, employment, successor-in-interest and/or
25 joint venture and that each and every defendant as aforesaid was acting as a principle
26 and was negligent in the selection and hiring and retention of each and every
27 defendant as an agent, employee, successor-in-interest and/or joint venturer.

28 At all times mentioned herein, defendant AMTRAK, NATIONAL RAILROAD

PASSENGER CORPORATION (AMTRAK) NORTHERN CALIFORNIA REGION dba (hereinafter "AMTRAK") were and now are private entities duly organized and existing under and by virtue of the laws of the State of California and authorized to do, and doing, business in the State of California with their principal place of business in Washington D.C.; said defendants were at all times herein mentioned, and now are, engaged in the business of a common carrier by railroad in the State of California.

16. On or about August 04th, 2016, the plaintiff daughter, Dejeni Monette Hall, was walking to the gym on her normal route to In-Shape in Merced California and was struck from behind. Ms. Hall is "**hearing impaired.**" and could not foresee being hit/pushed by a AMTRAK locomotive along side of the railroad tracks in the City Merced in the County of Merced, State of California. Plaintiff are informed and believe and thereon allege that at all times mentioned herein, said train, locomotive, railroad operations, tracks and adjoining railroad tracks and the railroad right of way on which they were located (herein after "said property") were owned, controlled, operated, managed, constructed, maintained, repaired, designed, evaluated, built, overseen, patrolled and supervised by AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive.
17. On or about August 04th, 2016, and prior thereto, defendants AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive, were responsible for maintaining and ensuring the safe use and proper condition of said railroad operations and property, including railroad crossings, locomotives, trains, signs, signals, switches, safety devices, **communication devices and other equipment at and along said property, and for properly and safely managing, overseeing and coordinating the travel of railroad trains upon and along said property and for properly and safely managing, overseeing and coordinating the travel** and owed the highest degree of care to the victim Dejeni Monette Hall, and her father Randy Lee. Hall plaintiff.
- On or about August 04th, 2016, AMTRAK, NATIONAL RAILROAD PASSENGER

1 CORPORATION (AMTRAK), and Does 1 through 50, inclusive, negligently,
2 carelessly and wrongfully owned, controlled, operated, managed, constructed,
3 maintained, repaired, designed, evaluated, built, oversaw, patrolled and supervised its
4 railroad trains, said property and the approach Ms. Hall so as to cause the train on
5 which the plaintiffs daughter, Dejeni Hall, was walking near the track, without any
6 communication from the train to hit her and striking her to her eventual death.

7 Thereafter leaving her along the side tract to die, while she was still alive and did
8 nothing, by attempting her to any comfort measures towards her demise, and thereby
9 cause injuries to the plaintiff. Furthermore, AMTRAK, NATIONAL RAILROAD
10 PASSENGER CORPORATION (AMTRAK), Does 1 through 50, inclusive,
11 negligently, carelessly and wrongfully failed to take reasonable steps/precautions to
12 prevent minimal injury to its victim by administering CPR-comfort measures, and
13 preventing death of hearing impaired public individuals near their approaching train to
14 alarm them of harm and to guard them from injury and death.

15 18. As a result of the conduct and negligence of defendants, and each of them, plaintiff
16 Dejeni Monette Hall, sustained injuries, including but not limited to, Hairline fracture
17 of skull at vertex, Acute subarachnoid hemorrhage, lacerations and contusions of
18 forehead and scalp, fracture-subluxation of cervical spine at C1-C2, with fractures of
19 Cs, posterior fractures of multiple right ribs, superficial capsular lacerations of liver
20 and spleen, stretch-type lacerations of both renal arteries with retro-peritoneal
21 hemorrhage, separation of left acromial-clavicular joint, fractures of right tibia and
22 fibula, abrasions and contusion of posterior neck and extremities, lacerations of right
23 lower leg of this pedestrian. By reason of said negligence. Plaintiffs will ask leave to
24 amend this Complaint to show the exact amounts incurred or will offer proof thereof
25 at the time of trial.

26 19. As a result of said conduct and negligence of defendants, and each of them, plaintiff
27 Randy Lee. Hall, has been emotionally distressed since the killing of his only
28 Daughter, not able to work at his usual pace at within his occupation and has lost

wages and earnings thereby; plaintiffs allege on information and belief that plaintiffs will lose further wages and earnings in the future by reason of said negligence. Plaintiffs do not know the total amount of wages or earnings lost or to be lost and will ask leave to amend this Complaint to show the same when ascertained or will offer proof thereof at the time of trial. AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), Plaintiff did not need to submit a government Claim for Damages due to the fact that "AMTRAK" is a Private Company.

20. Hall refers to and incorporates by reference the allegations of paragraphs 1 through 19 as though again fully set forth herein.

21. As a proximate result of Defendants' conduct, HALL has suffered damages to be proven at the time of trial and totaling in excess of \$15,000,000.

22. WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

III.

Second Cause of Action

Dangerous Condition of Public and Private Property

(Against all defendants)

23. (For Dangerous Condition of Public and Private Property Against Defendants, AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive)

Plaintiffs incorporate by reference as though fully set forth herein each and every fact, claim and allegation contained in the prior paragraphs.

24. On August 04th, 2016, and prior thereto, AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive, are, and at all times relevant herein were, the entities who owned, controlled, operated, managed, designed, evaluated, constructed, maintained, built, oversaw, repaired, patrolled, and supervised said property and the approach to said property along the tracks in the City of Merced, California.

1 On August 04th 2016, Victim Ms. Dejeni Monette Hall, was walking in a lawful and
 2 foreseeable manner as a pedestrian exercising due care on the public property when
 3 suddenly and without warning to her, AMTRAK, NATIONAL RAILROAD
 4 PASSENGER CORPORATION (AMTRAK), struck her causing severe injuries to her
 5 death.

6 25. Plaintiff, RANDY LEE. HALL is, and at all times herein mentioned are, individuals
 7 residing in the County of Contra Costa, State of California.

8 The true names and/or capacities, whether individual, corporate, associate or
 9 otherwise of defendants 1 through 50, inclusive, are unknown to plaintiff at this time
 10 who, therefore, sue said defendants by such fictitious names. Plaintiffs are informed
 11 and believe and thereupon alleges that each of the defendants fictitiously named
 12 herein as a Doe is legally responsible, negligently or in some other actionable manner,
 13 for the events and happenings hereinafter referred to and that the acts and omissions of
 14 said defendants was a legal cause of the injury to plaintiffs and the resulting injury and
 15 damages to plaintiff as hereinafter alleged. Plaintiff will amend this Complaint to
 16 assert the true names and/or capacities of such fictitiously named defendants when the
 17 same have been ascertained.

18 26. Plaintiff are informed and believe and thereupon alleges that, at all times mentioned
 19 herein, defendants were the agents, servants, employees, successors-in-interest and/or
 20 joint venturers of their co-defendants and were, as such, acting within the purpose,
 21 course, scope and authority of said agency, employment, successor-in-interest and/or
 22 joint venture and that each and every defendant as aforesaid was acting as a principle
 23 and was negligent in the selection and hiring and retention of each and every
 24 defendant as an agent, employee, successor-in-interest and/or joint venturer.
 25 At all times mentioned herein, defendant AMTRAK, NATIONAL RAILROAD
 26 PASSENGER CORPORATION (AMTRAK) NORTHERN CALIFORNIA REGION
 27 dba (hereinafter "AMTRAK") were and now are private entities duly organized and
 28 existing under and by virtue of the laws of the State of California and authorized to

do, and doing, business in the State of California with their principal place of business in Washington D.C.; said defendants were at all times herein mentioned, and now are, engaged in the business of a common carrier by railroad in the State of California.

27. On or about August 04th, 2016, the plaintiff only daughter, Dejeni Monette Hall, was walking to the gym on her normal route to In-Shape in Merced California and was struck from behind. Ms. Hall is "hearing impaired." and could not foresee being hit/pushed by a AMTRAK locomotive along side of the railroad tracks in the City Merced in the County of Merced, State of California. Plaintiff are informed and believe and thereon allege that at all times mentioned herein, said train, locomotive, railroad operations, tracks and adjoining railroad tracks and the railroad right of way on which they were located (herein after "said property") were owned, controlled, operated, managed, constructed, maintained, repaired, designed, evaluated, built, overseen, patrolled and supervised by AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive.
28. On or about August 04th, 2016, and prior thereto, defendants AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive, were responsible for maintaining and ensuring the safe use and proper condition of said railroad operations and property, including railroad crossings, locomotives, trains, signs, signals, switches, safety devices, **communication devices and other equipment at and along said property, and for properly and safely managing, overseeing and coordinating the travel of railroad trains upon and along said property and for properly and safely managing, overseeing and coordinating the travel** and owed the highest degree of care to the victim Dejeni Monette Hall, and her father Randy Lee. Hall plaintiff.
29. On or about August 04th, 2016, AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), and Does 1 through 50, inclusive, negligently, carelessly and wrongfully owned, controlled, operated, managed, constructed, maintained, repaired, designed, evaluated, built, oversaw, patrolled and supervised its

1 railroad trains, said property and the approach Ms. Hall so as to cause the train on
2 which the plaintiffs daughter, DeJani Hall, was walking near the track, without any
3 communication from the train to hit her and striking her to her eventual death.

4 Thereafter leaving her along the side of the track to die while she was still alive and
5 did nothing by attempting her to any comfort towards her demise, and thereby cause
6 injuries to the plaintiff. Furthermore, AMTRAK, NATIONAL RAILROAD
7 PASSENGER CORPORATION (AMTRAK), Does 1 through 50, inclusive,
8 negligently, carelessly and wrongfully failed to take reasonable steps/precautions to
9 prevent minimal injury to its victim by administering CPR-comfort measures, and
10 preventing death of hearing impaired public individuals near their approaching train to
11 alarm them of harm and to guard them from injury and death. This company had no
12 such devices in-place to prevent (any) hearing impaired individual to be able to move
13 from an approaching train.

14 30. As a result of the conduct and negligence of defendants, and each of them, plaintiffs
15 only daughter DeJani Monette Hall, sustained injuries, including but not limited to,
16 Hairline fracture of skull at vertex, Acute subarachnoid hemorrhage, lacerations and
17 contusions of forehead and scalp, fracture-subluxation of cervical spine at C1-C2,
18 with fractures of Cs, posterior fractures of multiple right ribs, superficial capsular
19 lacerations of liver and spleen, stretch-type lacerations of both renal arteries with
20 retro-peritoneal hemorrhage, separation of left acromial-clavicular joint, fractures of
21 right tibia and fibula, abrasions and contusion of posterior neck and extremities,
22 lacerations of right lower leg of this pedestrian. By reason of said negligence.
23 Plaintiffs will ask leave to amend this Complaint to show the exact amounts incurred
24 or will offer proof thereof at the time of trial.

25 31. As a result of said conduct and negligence of defendants, and each of them, plaintiff
26 Randy Lee. Hall, has been emotionally distressed since the killing of his only
27 Daughter, not able to work at his usual pace at within his occupation and has lost
28 wages and earnings thereby; plaintiffs allege on information and belief that plaintiffs

will lose further wages and earnings in the future by reason of said negligence. Plaintiffs do not know the total amount of wages or earnings lost or to be lost and will ask leave to amend this Complaint to show the same when ascertained or will offer proof thereof at the time of trial. AMTRAK, NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK), Plaintiff did not need to submit a government Claim for Damages due to the fact that "AMTRAK" is a Private Company.

32. Hall refers to and incorporates by reference the allegations of paragraphs 1 through 19 as though again fully set forth herein.

33. As a proximate result of Defendants' conduct, HALL has suffered damages to be proven at the time of trial and totaling in excess of \$15,000,000.00.

34. WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

First Cause of Action

GROSS NEGLIGENCE

(As against all Defendants)

35. WHEREFORE, HALL prays:

For HALL's First Cause of Action for - Gross Negligence:

36. For special damages;

37. For general damages;

38. For punitive damages;

39. For attorney fees and costs of suit herein incurred; and

40. For such other and further relief as this Court may deem proper.

Second Cause of Action

Dangerous Condition of Public and Private Property

(As against all Defendants)

41. For special damages;

42. For general damages;

43. For punitive damages;

- 1 44. For attorney fees and costs of suit herein incurred; and
2 45. For such other and further relief as this Court may deem proper.
3
4

5 Dated: August 02, 2018
6

7 By: 
8

RANDY LEE HALL
Plaintiff in pro per
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EXHIBIT B

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
 180 Montgomery Street, Suite 1200
 San Francisco, California 94104

VINCENT CASTILLO, State Bar No. 209298
 vcastillo@aghwlaw.com
 ALEXEI N. OFFILL-KLEIN, State Bar No. 288448
 aklein@aghwlaw.com
 ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
 180 Montgomery Street, Suite 1200
 San Francisco, CA 94104
 Telephone: (415) 697-2000
 Facsimile: (415) 813-2045

Attorneys for Defendants
 NATIONAL RAILROAD PASSENGER
 CORPORATION dba AMTRAK, JONATHAN STASKA,
 DENISE HOGG, and MICHAEL JOHN TORRENCE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF CONTRA COSTA

RANDY LEE HALL,

Plaintiff,

v.

AMTRAK, NATIONAL RAILROAD
 PASSENGER CORPORATION
 (AMTRAK), RICHARD H. ANDERSON
 President and Chief Executive Officer,
 ELEANOR D. ACHESON-Executive Vice
 President and General Counsel &
 Corporate Secretary, KENNETH
 HYLANDER-Executive Vice President
 and Chief Safety Officer, JONATHAN
 STASKA-Engineer Driver, DENISE
 HOGG-Conductor, MICHAEL JOHN
 TORRENCE-Assistant Conductor, and
 DOES 1 to 50, inclusive,

Defendants.

Case No. MSC18-01545

[ASSIGNED TO HON. JILL FANNIN, DEPT. 21,
 FOR ALL PURPOSES]

DEFENDANTS' NOTICE OF REMOVAL

Action Filed: August 2, 2018
 Trial Date: None Set

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ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, California 94104

1 TO THE COURT AND PLAINTIFF IN PRO PER:

2 NOTICE IS HEREBY GIVEN that Defendants NATIONAL RAILROAD PASSENGER
3 CORPORATION dba AMTRAK (erroneously sued as "AMTRAK, NATIONAL RAILROAD
4 PASSENGER CORPORATION (AMTRAK)"), JONATHAN STASKA, DENISE HOGG, and
5 MICHAEL JOHN TORRENCE have filed a Notice of Removal of the above-captioned action, *a*
6 *copy of which is attached hereto as Exhibit 1*, with the United States District Court for the
7 Northern District of California.

8 PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. §1446(b), the filing of
9 said Notice in the United States District Court, together with the filing of said Notice with this
10 court, effects the removal of this action, and the above-captioned Court may proceed no further
11 unless and until the case has been remanded.

12
13
14 Dated: April 29, 2019

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

Alex Klein

15
16
17 By: _____

VINCENT CASTILLO
ALEXEI N. OFFILL-KLEIN
Attorneys for Defendants
NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK, JONATHAN
STASKA, DENISE HOGG, and MICHAEL
JOHN TORRENCE

PROOF OF SERVICE
Randy Lee Hall v. Amtrak et al.
 Contra Costa Superior Court, Case No. MSC18-01545

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Francisco; my business address is: 180 Montgomery Street, Suite 1200, San Francisco, California 94104. On April 29, 2019, I served the within:

DEFENDANTS' NOTICE OF REMOVAL

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

Randy Lee Hall
 1006 Regatta Point
 Hercules, CA 94547

T: (510) 812-3139

Plaintiff Pro Per

☒ By United States Mail: I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 29, 2019, at San Francisco, California.


 Adrian Castaneda

PROOF OF SERVICE
Randy Lee Hall v. Amtrak et al.
 U.S. Northern District Case No.

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Francisco; my business address is: 180 Montgomery Street, Suite 1200, San Francisco, California 94104. On April 29, 2019, I served the within:

NOTICE OF REMOVAL BY DEFENDANTS

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

Randy Lee Hall
 1006 Regatta Point
 Hercules, CA 94547

T: (510) 812-3139

Plaintiff Pro Per

☒ By United States Mail: I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

☒ I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on April 29, 2019, at San Francisco, California.

/s/ Adrian Castaneda

Adrian Castaneda

Exhibit 3

DE-140

| | | | | | |
|--|---|-------------------------|---|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): RANDY LEE. HALL 1006 Regatta Pt. Hercules, CA 94547 | | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; margin: 5px 0;">2019 SEP -3 A 11: 57</div> <div style="font-size: 0.8em; margin: 5px 0;">KATE BIEKER CLERK OF THE SUPERIOR COURT COUNTY OF CONTRA COSTA, CA</div> <div style="font-size: 0.8em; margin: 5px 0;">BY: WEBER, DEPUTY CLERK</div> | | |
| ATTORNEY FOR (Name): Personal Representative in Pro Per | | | | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Contra Costa STREET ADDRESS: 725 Court Street MAILING ADDRESS: 725 Court Street CITY AND ZIP CODE: Martinez, CA 94553 BRANCH NAME: Wakefield Taylor Courthouse | | | | | |
| ESTATE OF (Name): Dejani M. Hall <div style="text-align: right;">DECEDENT</div> | | | | | |
| ORDER FOR PROBATE <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> ORDER APPOINTING <input type="checkbox"/> Order Authorizing Independent Administration of Estate <input type="checkbox"/> with full authority <input type="checkbox"/> with limited authority </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Executor <input type="checkbox"/> Administrator with Will Annexed <input type="checkbox"/> Administrator <input checked="" type="checkbox"/> Special Administrator </td> </tr> </table> | | | ORDER APPOINTING <input type="checkbox"/> Order Authorizing Independent Administration of Estate <input type="checkbox"/> with full authority <input type="checkbox"/> with limited authority | <input type="checkbox"/> Executor <input type="checkbox"/> Administrator with Will Annexed <input type="checkbox"/> Administrator <input checked="" type="checkbox"/> Special Administrator | CASE NUMBER: <div style="font-size: 1.2em; font-weight: bold;">P19-01290</div> |
| ORDER APPOINTING <input type="checkbox"/> Order Authorizing Independent Administration of Estate <input type="checkbox"/> with full authority <input type="checkbox"/> with limited authority | <input type="checkbox"/> Executor <input type="checkbox"/> Administrator with Will Annexed <input type="checkbox"/> Administrator <input checked="" type="checkbox"/> Special Administrator | | | | |
| WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED. | | | | | |

1. Date of hearing: 9-3-19 Time: **EX PARTE** Dept./Room: 14 Judge: **JOHN H SUGIYAMA**
 THE COURT FINDS

2. a. All notices required by law have been given.
 b. Decedent died on (date): August 04, 2016
 (1) ☒ a resident of the California county named above.
 (2) ☐ a nonresident of California and left an estate in the county named above.
 c. Decedent died
 (1) ☐ intestate
 (2) ☐ testate
 and decedent's will dated: _____ and each codicil dated: _____
 was admitted to probate by Minute Order on (date): _____

THE COURT ORDERS

3. (Name): **RANDY LEE. HALL**
 is appointed **personal representative**:
 a. ☐ executor of the decedent's will
 b. ☐ administrator with will annexed
 c. ☐ administrator

- d. ☒ special administrator
 (1) ☐ with general powers
 (2) ☐ with special powers as specified in Attachment 3d(2)
 (3) ☒ without notice of hearing
 (4) ☒ letters will expire on (date): 6-3-20

- and letters shall issue on qualification.
 4. a. ☐ Full authority is granted to administer the estate under the Independent Administration of Estates Act.
 b. ☐ Limited authority is granted to administer the estate under the Independent Administration of Estates Act (there is no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
 5. a. ☒ Bond is not required.
 b. ☐ Bond is fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law.
 c. ☐ Deposits of: \$ _____ are ordered to be placed in a blocked account at (specify institution and location): _____ and receipts shall be filed. No withdrawals shall be made without a court order. ☐ Additional orders in Attachment 5c.
 d. ☒ The personal representative is not authorized to take possession of money or any other property without a specific court order.
 6. ☐ (Name): _____ is appointed probate referee.

Date: 9/3/19

7. Number of pages attached: 0

JUDGE OF THE SUPERIOR COURT

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

Exhibit 4

DE-150

| | | | | | |
|---|--|---|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): RANDY LEE. HALL 1006 Regatta Pt. Hercules, CA 94547 | | TELEPHONE AND FAX NOS.: | | FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; margin: 5px 0;">2019 SEP -3 A 11:10</div> <div style="font-size: 0.8em; margin: 5px 0;">KATE DYKER CLERK OF THE SUPERIOR COURT COUNTY OF CONTRA COSTA, CA</div> <div style="font-size: 0.8em; margin: 5px 0;">BY: WEEGER, DEPUTY CLERK</div> | |
| ATTORNEY FOR (Name): Personal Representative in Pro Per SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA STREET ADDRESS: 725 Court Street MAILING ADDRESS: 725 Court Street CITY AND ZIP CODE: Martinez, CA 94553 BRANCH NAME: Wakefield Taylor Courthouse | | CASE NUMBER: <div style="font-size: 1.2em; font-weight: bold;">P19-01290</div> | | | |
| ESTATE OF (Name): <div style="text-align: center; font-size: 1.1em;">Dejani M. Hall</div> <div style="text-align: right; font-size: 0.8em;">DECEDENT</div> | | | | | |
| <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED </div> <div style="text-align: center;"> LETTERS <input checked="" type="checkbox"/> OF ADMINISTRATION <input checked="" type="checkbox"/> SPECIAL ADMINISTRATION </div> </div> | | | | | |

LETTERS

1. ☐ The last will of the decedent named above having been proved, the court appoints (name):
 - a. ☐ executor.
 - b. ☐ administrator with will annexed.
2. ☒ The court appoints (name): **RANDY LEE. HALL**
 - a. ☐ administrator of the decedent's estate.
 - b. ☒ special administrator of decedent's estate
 - (1) ☐ with the special powers specified in the Order for Probate.
 - (2) ☐ with the powers of a general administrator.
 - (3) ☒ letters will expire on (date): **06-03-20**
3. ☒ The personal representative is authorized to administer the estate under the Independent Administration of Estates Act ☒ with full authority ☐ with limited authority (no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
4. ☒ The personal representative is not authorized to take possession of money or any other property without a specific court order.

AFFIRMATION

1. ☐ PUBLIC ADMINISTRATOR: No affirmation required (Prob. Code, § 7621(c)).
2. ☒ INDIVIDUAL: I solemnly affirm that I will perform the duties of personal representative according to law.
3. ☐ INSTITUTIONAL FIDUCIARY (name):

I solemnly affirm that the institution will perform the duties of personal representative according to law. I make this affirmation for myself as an individual and on behalf of the institution as an officer.
 (Name and title):

4. Executed on (date): **9-3-19** at (place): **MARTINEZ**, California.


 (SIGNATURE)

CERTIFICATION

I certify that this document is a correct copy of the original on file in my office and the letters issued the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

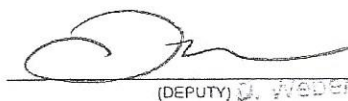
WITNESS, clerk of the court, with seal of the court affixed.

SEP 03 2019



Date:

Clerk, by


 (DEPUTY) J. Weber



Date:

Clerk, by

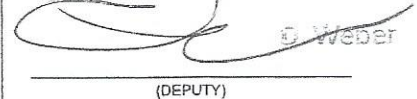

 (DEPUTY)

Exhibit 5

JHN-201-2005 12:11

A0622794

P.02

NCTO

0594986

FILED
in the office of the Secretary of State
of the State of California

JAN 21 2005

Kevin Shelley
KEVIN SHELLEY, Secretary of State

**AMENDED STATEMENT BY
FOREIGN CORPORATION**

BNSF Railway Company

(Name of Corporation)

_____, a corporation organized

and existing under the laws of Delaware, and which is presently
(State or Place of Incorporation)

qualified for the transaction of intrastate business in the State of California, makes the
following statement:

That the name of the corporation has been changed to that hereinabove set forth and
that the name relinquished at the time of such change was _____

The Burlington Northern and Santa Fe Railway Company

BNSF Railway Company

(Name of Corporation)

[Signature]
(Signature of Corporate Officer)

Craig N. Smetko, Asst. Secretary

(Typed Name and Title of Officer Signing)

JAN-21-2005 12:47

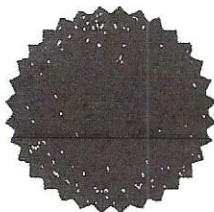
P.02

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY", FILED A RESTATED CERTIFICATE, CHANGING ITS NAME TO "BNSF RAILWAY COMPANY", THE TWENTIETH DAY OF JANUARY, A.D. 2005, AT 8:53 O'CLOCK A.M.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

0561728 8320

AUTHENTICATION: 3628903

050048119

DATE: 01-20-05

TOTAL P.02